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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ANTHONY BARTUCHIE,

Plaintiff,

vs.

SEVENTH AVENUE, INC.,

Defendant.

Case No.:

**COMPLAINT FOR VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION (“TCPA”)**

DEMAND FOR JURY TRIAL

This is an action for damages arising from Defendant’s violations of 47 U.S.C. § 227 *et seq.*, the Telephone Consumer Protection Act (“TCPA”). Plaintiff Anthony Bartuchie (hereinafter “Plaintiff”) hereby states and alleges against the Defendant, Seventh Avenue Inc. (hereinafter “Defendant”) as follows:

PARTIES

1. Plaintiff is a natural person, who at all material times resided in Beaverton, Oregon 97006.

1 2. Defendant is a corporation doing business in the State of Oregon with a corporate address
2 at 1112 7th Avenue, Monroe, Wisconsin 53566.

3
4 **JURISDICTION AND VENUE**

5 3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

6
7 4. Venue is proper in this district under 28 U.S.C § 1391(b).

8
9 **FACTUAL ALLEGATIONS**

10 5. Plaintiff purchased a ring from Defendant and received it on November 19, 2016.

11
12 6. Unsatisfied with the ring, Plaintiff returned the ring to Defendant by sending it back to
13 Defendant; mailing it in the return envelope provided by Defendant on November 20, 2016.

14
15 7. For reasons unknown to Plaintiff, Defendant claimed never to have received the ring back
16 in the mail, and began placing collection calls to Plaintiff.

17
18 8. Beginning in December 2016, Plaintiff began receiving collection calls from Defendant
19 related to the ring. Defendant would call Plaintiff using an artificial voice and ask Plaintiff to
20 hold to speak with a representative of Defendant.

21
22 9. Despite Plaintiff's attempts to explain that the ring had been returned to Defendant by
23 mailing it in Defendant's own return envelope, Defendant continued to place collection calls to
24 Plaintiff.

25
26 10. As a result of the continued calls, Plaintiff told Defendant to cease calling at the end of
27 December 2016, and again, at a minimum of twelve times thereafter.

11. Despite Plaintiff's request, Defendant continued making automated telephone calls to Plaintiff's cellular telephone phone number, 971-xxx-0360.

12. Finally, on March 21, 2017, during a phone call between Plaintiff and Defendant, Defendant agreed to reduce Plaintiff's balance owed to zero and cease making telephone calls to Plaintiff.

13. In total, Plaintiff received a minimum of thirty telephone calls from Defendant without his consent, or after any consent to call him was revoked in December 2016.

14. The telephone calls made by Defendant to Plaintiff were made from the phone number 877-998-4494.

15. The phone number 877-998-4494 belongs to Defendant.

16. Upon information and belief, all the telephone calls identified above were placed to Plaintiff's cellular telephone number using an automated telephone dialing system.

FIRST CLAIM FOR RELIEF

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227

17. Plaintiff repeats the allegations contained in paragraphs 1 through 16 and incorporates them as if set forth at length herein.

18. All telephone calls to Plaintiff from Defendant were made utilizing an automated dialer.

19. Defendant did not have Plaintiff's consent to make the telephone calls as any consent that previously existed was expressly revoked.

20. Defendant's actions constitute violations of 47 U.S.C. § 227(b)(1)(A)(iii), to which no exemption applies to their conduct.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against the Defendant, and on behalf of the Plaintiff, for the following:

- a. That an order be entered declaring the Defendant's actions, as described above, in violation of the TCPA;
- b. That judgment be entered in favor of Plaintiff against Defendant for each separate and distinct violation of 47 U.S.C. § 227b(1)(A)(iii);
- c. That the Court award treble damages to Plaintiff for each violation of the TCPA the Court deems willful;
- d. That the Court grant such other and further relief as may be just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Dated: December 5, 2017

Respectfully Submitted,

s/ Susan G. Steinman
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